

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE, NASHVILLE DIVISION**

**JOHN DOES #1–3, individually and on  
behalf of all others similarly situated,**

**Plaintiffs,**

**vs.**

**WILLIAM B. LEE, Governor of the State  
of Tennessee, *et al.*,**

**Defendants.**

**Case No. 3:19-cv-532**

**Judge Crenshaw**

**Magistrate Judge Brown**

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**PLAINTIFFS’ MOTION FOR LEAVE TO FILE PARTIAL SUMMARY  
JUDGMENT MOTION ON *EX POST FACTO* CLAIM AND  
SUPPORTING MEMORANDUM**

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Plaintiffs move the Court for leave to file a motion for partial summary judgment on their *ex post facto* claim.

The case management order in this case provides that no motion for partial summary judgment may be filed without leave of the Court. (Doc. 34 at PageID 214.) As Plaintiffs state in their response to Defendants motion to stay these proceedings (Doc. 39), Defendants should be permitted to seek adjudication of their individual facial *ex post facto* claims—which this Court has already found likely to succeed—by means of a partial summary judgment motion. First, a judgment in favor of Plaintiffs on their individual facial *ex post facto* challenges would moot Plaintiffs’ other individual claims and likely obviate the need for class relief for offenders convicted before the enactment of SB 425/Public Chapter No. 374. Second, adjudicating those facial claims will not require resolution of factual issues as there is no genuine dispute that Plaintiffs have minor children. Third, a judgment of unconstitutionality will have the salutary effect of deterring future abuses of legislative power against an unpopular minority.

In the interest of judicial economy, Plaintiffs would not object to a stay of class discovery and class adjudication while that motion is pending.

For these reasons, Plaintiffs request the Court to grant them leave to file a motion for partial summary judgment on their facial *ex post facto* claims and grant any other necessary or proper relief.

Respectfully submitted:

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## CERTIFICATE OF SERVICE

I certify that on January 6, 2020, a copy of the foregoing was served by e-mail on:

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